

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 125 of 1999

in

SPECIAL CIVIL APPLICATION No 4104 of 1997

with

LETTERS PATENT APPEAL No 128 of 1999

in

SPECIAL CIVIL APPLICATION NO. 4105 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

BALENDRABHAI RAVJIBHAI PATEL

Appearance:

1. LETTERS PATENT APPEAL No. 125 of 1999
GOVERNMENT PLEADER for Appellants
MR RM CHHAYA for Respondent No. 1

2. LETTERS PATENT APPEAL No 128 of 1999
GOVERNMENT PLEADER for Appellants
MR RM CHHAYA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and

Date of decision: 17/11/1999

ORAL JUDGEMENT

Per J.N.Bhatt, J.

In both these appeals, identical question is raised and therefore, they are being disposed by this common judgment.

The only question with which we are confronted in this group of appeals is, whether the common judgment rendered by the Learned Single Judge, on 1.10.97, in Original writ petition is in any way, vulnerable or found to be unjust or illegal, whereby, the action of the Appellant Authority, original-respondent in one case in canceling the licence and in other case, proposed action answered by issuance of show cause notice came to be quashed and set aside or not ?

A few relevant facts may be stated at this stage. The respondent who are the original petitioner who are dealing with the petroleum products like Diesel, since long and they are holding licence, issued by the appellant authority, as required under the Gujarat Essential Commodities Articles (Licencing, control and Stock Declaration) Order 1981, pursuant to then provisions of Sec. 3 of the Essential Commodities Act, 1981 (Order for short) following facts are not in contravention.

That the respondent, original-petitioners, are holding licence since 1981 under the Order. The terms of the licence lastly came to be renewed in 1995 for a spell of 5 years i.e. up to 31st December 2000.

That the petitiners have not committed any breach or violation of any terms and conditions of the licence and that is not the case of the Appellant Authority, original-respondent. The only ground for which in one case, the licence came to be revoked and other case show cause notice for cancellation of licence came to issued. by the Authority, relying upon the definition of the expression "Dealer" ; the action taken by the authority was challenged by way of filing the writ petition. There are all such other 4 petitions Spl. C.A.No.3974/97, 4103/97, 4104/97, 4105/97.

The Learned Trial Judge passed a common judgment inter alia holding that the action of the Authority in cancelling the licence and also in issuing of the show

cause notice was not legal and valid. Interpreting definition of "Dealer" and also placing reliance on a decision of the Hon. Supreme Court in Mahebub Auto V/s. I.O.C. reported in AIR 1990, 1031, and also the decision of this Court, rendered in Spl.C.A. No.221/94 and 222/94 decided by this Court on April 26th '94, in that group of petitions also, the premature termination of the licence by the Licencing Authority before the expiry of the terms specified in the licence in absence of any allegations or any violation of any terms and condition and licence was held to be arbitrary and violative of the principle annunciated in the Constitution of India.

After considering the factual scenario emerging from the records in this group of appeals and the definition expressed for Dealer employed in the order and also having heard, we find no any justification to interfere with the impugned common judgment. We are satisfied with the impugned common judgment rendered by the Learned Single Judge is justified and therefore, this group of appeals under Clause 15 of L.P.A. merits rejection and accordingly appeals are rejected without any orders as to the cost.

At the same time, the Civil Applications, No.1616/99 and No.1613/99, are also stand disposed of.

sanjay/